

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**July 12, 2004**

<b>IN RE:</b>	)	
	)	
<b>PETITION FOR EXPEDITED REVIEW OF</b>	)	<b>DOCKET NO.</b>
<b>CENTRAL OFFICE CODE DENIAL BY THE</b>	)	<b>04-00134</b>
<b>NUMBER POOLING ADMINISTRATION</b>	)	
<b>RELATING TO COVENANT HEALTH</b>	)	

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**ORDER APPROVING PETITION FOR  
EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL  
AND REVERSING CENTRAL OFFICE CODE DENIAL**

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This matter came before Chairman Deborah Taylor Tate, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on June 7, 2004 for consideration of the *Petition for Expedited Review of Central Office Code Denial* by the Pooling Administrator relating to Covenant Health filed by BellSouth Communications, Inc. ("BellSouth") on May 6, 2004.

**BACKGROUND**

In March of 2000, the Federal Communications Commission ("FCC"), recognizing "the near-crisis" caused by the exhaustion of telephone numbers in certain expanding geographic areas, initiated a policy designed "to slow down the rate at which central office codes (or NXXs) in those areas are assigned to carriers."<sup>1</sup> Among other things, the FCC adopted a mandatory utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their

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<sup>1</sup> *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Report and Order and Further Notice of Proposed Rule Making*) 15 FCC Rcd 7574, 2000 WL 339808, ¶¶ 2, 183, 191 (March 31, 2000) (hereinafter "*First Report and Order*"); see also 47 U.S.C. § 251(e)(1) (directing the FCC to "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis")

utilization, and a utilization threshold framework to increase carrier accountability and provide incentives to use numbers efficiently.<sup>2</sup> Under this policy, carriers seeking additional numbering resources must apply to the North American Numbering Plan Administration (“NANPA”) “or another entity or entities, as designated by the Commission” for a decision as to whether to allocate the numbers.<sup>3</sup>

Relief for the NPA was implemented with the start of mandatory dialing for the 865 NPA on November 1, 1999. On June 18, 2001, the FCC designated NeuStar, Inc. (“NeuStar”) as the national thousands-block number Pooling Administrator.<sup>4</sup> NeuStar, which was also serving as the NANPA, currently administers thousands-block number pools by assigning, managing, forecasting, reporting, and processing data that will allow service providers in areas designated for thousands-block number pooling to receive telephone numbers in blocks of 1,000. Thousands-block number pooling was implemented in the Lenoir City Rate Center in September 2002. Since then, telecommunications service providers participating in number pooling in that area are required to submit their requests for additional numbering resources to the Pooling Administrator. The projected exhaust date of the 865 NPA is the fourth quarter of 2021.<sup>5</sup>

On March 19, 2004, BellSouth submitted an application to the Pooling Administrator to obtain numbering resources sufficient to satisfy the demands of Covenant Health, a customer that requested eight hundred numbers for Fort Loudon Medical Center in the Lenoir City Rate Center. The Lenoir City Rate Center has a utilization rate of 81.79% and 21 months is the projected Months to Exhaust (MTE). The application was denied by NeuStar on May 3, 2004.

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<sup>2</sup> See *First Report and Order*, ¶¶ 40-41, 84, 97-98

<sup>3</sup> See 47 C.F.R. § 52.15(a), see also *First Report and Order*, ¶¶ 143-48 (providing background on the development of the pooling administrator)

<sup>4</sup> *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Third Report and Order and Second Order on Reconsideration*) 17 FCC Rcd 252, 2001 WL 1658101, ¶ 11 (Dec. 28, 2001) (hereinafter “*Third Report and Order*”), see also 47 C.F.R. § 52.15(a)

<sup>5</sup> NRUF Form 502, NPA Exhaust Analysis, changes as of April 30, 2004, as released with the Numbering Resource Utilization and Forecast (“NRUF”).

On May 6, 2004, BellSouth filed with the Authority its *Petition for Expedited Review of Central Office Code Denial* relating to Covenant Health. BellSouth asserts that its inability to supply Covenant Health with the requested numbers within the same NXX code prevents BellSouth from providing the quality of service its customers expect.<sup>6</sup> BellSouth requests that the Authority reverse the Pooling Administrator's denial of its application and order the release of numbering resources.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Review by the TRA of the Pooling Administrator's denial of BellSouth's application is authorized by the FCC.<sup>7</sup> According to the FCC,

We agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources. State commissions should only apply a safety valve mechanism as a last resort and, to the extent possible, use it as a stop gap measure to enable carriers in need of additional numbering resources to continue to serve their customers. We adopt one specific safety valve to address the numbering resource requirements of carriers experiencing rapid growth in a given rate area. We also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of these specifically enumerated instances.<sup>8</sup>

State commissions conducting this review must act consistently with the FCC's policy of facilitating fair and efficient numbering administration in the United States and ensuring that numbering resources are available to all telecommunications service providers on a fair and equitable basis.<sup>9</sup>

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<sup>6</sup> *In Re Petition of BellSouth for Expedited Review of Central Office Code Denial*, p. 4 (May 6, 2004)

<sup>7</sup> *Third Report and Order*, ¶ 61, *see also* 47 C.F.R. § 54.15(g)(3)(iv)

<sup>8</sup> *Third Report and Order*, ¶ 61

<sup>9</sup> *See, e.g., In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Order*) 16 FCC Rcd 15,842, 2001 WL 964979, ¶ 8 (Aug. 24, 2001) ("[T]he state commissions, to the extent that they act under the authority delegated herein, must ensure that numbers are made available on an equitable basis; that numbering resources are made available on an efficient and timely basis, that whatever policies the state commissions institute with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers, and that the state commissions not unduly favor one telecommunications technology over another"); *see FCC Announces GSA Approval of North American Numbering Council Through October 4, 2003*, CC Docket No. 92-237 (*Public Notice*) 16 F.C.C.R. 18,502, 2001 WL 1222428 (Oct. 15, 2001)

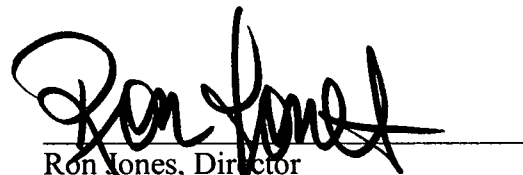
At a regularly scheduled Authority Conference held on June 7, 2004, the voting panel assigned to this docket considered BellSouth's *Petition for Expedited Review of Central Office Code Denial*. After consideration of the record, the public interest, and this agency's responsibility to foster competition in the telecommunications industry,<sup>10</sup> the panel voted unanimously to approve the petition of BellSouth for expedited review and reverse the Pooling Administrator's denial of BellSouth's request for additional numbering resources.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition for Expedited Review of Central Office Code Denial* filed by BellSouth Communications, Inc. is granted.
2. The Pooling Administrator's decision to deny BellSouth's request for additional numbering resources is reversed as stated herein.
3. The North American Numbering Plan Administration is ordered to assign a block of 1,000 numbers to BellSouth for the Lenoir City Rate Center.

  
Deborah Taylor Tate, Chairman

  
Pat Miller, Director

  
Ron Jones, Director

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<sup>10</sup> See Tenn. Code Ann. § 65-4-123